

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	
)	
EASTERN LIVESTOCK CO., LLC,)	Case No. 10-93904-BHL-11
)	
Debtor.)	Hon. Basil H. Lorch III

**TRUSTEE'S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH TURNER COUNTY STOCKYARDS, INC.**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for the bankruptcy estate (the "Estate") of Eastern Livestock Co., LLC ("Debtor"), by counsel, respectfully moves the Court to approve a compromise and settlement of claims between the Trustee and Turner County Stockyards, Inc. ("Turner"). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case ("Chapter 11 Case") on December 6, 2010 (the "Petition Date"). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.
2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.
3. The Trustee filed the *Trustee's Chapter 11 Plan of Liquidation* on July 23, 2012 [Docket No. 1255] and the *First Amended Chapter 11 Plan of Liquidation* on October 26,

2012 [Docket No. 1490] ("Plan"). The Court entered an Order on December 17, 2012 [Docket No. 1644] ("Confirmation Order") confirming the Plan.

4. The Trustee contends that prior to the Chapter 11 Case, Debtor purchased a number of lots of cattle from or through Turner (the "Turner Cattle"). One such purchase was for 65 head of cattle that were delivered to J&F Oklahoma Holdings, Inc. ("J&F") or one of its feedyards and another purchase was for 69 head of cattle that were delivered to Friona Industries, L.P. ("Friona") or one of its feedyards.

5. J&F interpled \$48,324.96 for the Turner Cattle that it received ("J&F Interpled Funds"), with the Court in connection with Adversary Proceeding No. 11-59093 (the "Adversary") and Friona interpled \$50,784.57 for the Turner Cattle that it received ("Friona Interpled Funds" and collectively the "Interpled Funds").

6. Turner filed its Answer, Counterclaim and CrossClaim to the Original Complaint filed by J&F while the Adversary was still pending in the U.S. District Court for the Northern District of Texas, asserting a claim to the J&F Interpled Funds. Additionally, Turner filed its Answer, Counterclaim and Crossclaim to the Original Complaint filed by Friona while the Adversary was still pending in the U.S. District Court for the Northern District of Texas, asserting a claim to the Friona Interpled Funds. Turner now agrees and acknowledges that its claim in the Friona Interpled Funds is limited to \$47,944.57. Thus, Turner's total claim to the Interpled Funds is \$96,269.53.

7. The Trustee contends that the Interpled Funds are property of Debtor's bankruptcy estate.

8. On April 29, 2011, Turner filed a proof of claim (the "Turner POC") in the Chapter 11 Case. The Turner POC is designated on the official claims register maintained by

The BMC Group, Inc. as claim no. 375. The Turner POC asserts a total claim against Debtor in the amount of \$143,425.13, which includes claims that are unrelated to the Interpled Funds.

The Settlement

9. The Trustee has negotiated a settlement of Turner's claims on the terms set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A ("Settlement Agreement"). Pursuant to the Settlement Agreement, the Trustee and Turner have agreed to divide the Interpled Funds, with Turner receiving \$9,626.95 of the Interpled Funds (the "Settlement Payment") and the Trustee receiving the remaining \$86,642.58 of the Interpled Funds. As of Turner's receipt of the Settlement Payment, the Turner POC shall be deemed to have been amended, without further action by either the Trustee or Turner, to assert an unsecured claim in the total amount of \$133,798.18 (the "Turner Allowed Claim"). The parties shall release and waive all other claims related to the Turner Cattle.

10. In accordance with the terms of the Plan, the \$86,642.58 of Interpled Funds received by the Trustee shall become part of the Collateral Fund (as that term is defined in the Plan).

Basis for Relief

11. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

12. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M.

Holloway Found, 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

13. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate. The Settlement Payment is less than the Trustee would be required to spend to obtain a judgment as to the relative rights in and to the Interpled Funds. Accordingly, continued litigation with Turner would result in significant expenses and delay and a smaller recovery to the estate.

14. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement attached hereto as Exhibit A and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Shawna Meyer Eikenberry

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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2014, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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